

**CIVIL CASE NO. 3:07cv318**

**Defendant.**

## ORDER

**THIS MATTER** is before the Court on the Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 13], filed April 8, 2008; the Defendant's Request for Permission to File Statement of Non-Opposition to Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 14], filed April 10, 2008; the Plaintiff's Request for Permission to File a Motion to Transfer this Case [Doc. 12], filed April 7, 2008; the Defendant's Request for Permission to File Amended Certificate of Service [Doc. 16], and the Defendant's Request for Permission to File Motion for Relief from Pretrial Order and Case Management Plan [Doc. 17], both documents filed April 14, 2008. Document 16 was filed with respect to Defendant's Request for permission

to file Statement of Non-Opposition to Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 14]; while Document 17 was filed with respect to the Court's March 27, 2008, Memorandum of Decision and Order [Doc. 77 in Case 3:05cv33] as the Defendant seeks Relief from the Court's Pretrial Order and Case Management Plan [Doc. 11]. Also before the Court are the Report of Parties' Efforts to Select Mediator [Doc. 18], filed by the Defendant and Report to the Court [Doc.19], filed by the Plaintiff, both having been filed on April 21, 2008.

As a threshold matter the Court will address the Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 13]. The Court was reluctant to grant this motion, even though the Defendant sufficiently voiced his lack of opposition thereto, because it appeared that the Plaintiff's action stemmed from a misreading and misunderstanding of the Court's March 27, 2008, Memorandum of Decision and Order [Doc. 77 in Case 3:05cv33], which Plaintiff even misquoted in his Motion. In his Report to the Court [Doc. 19], however, Plaintiff asserts that his "handicap and poor health situation largely restrict[] travel for [him]," [Id. at 3], reflecting the burden that this case has become for Plaintiff. Based thereon and based on the record in this matter the Court finds that the best interests of the Plaintiff, the best interests of the Defendant, the best interests of the Court and the best

interests of justice would be served by granting the Plaintiff's Motion and allowing the Plaintiff to voluntarily dismiss his case. The Court will, therefore, in its discretion, grant the Motion. Such dismissal shall be without prejudice.

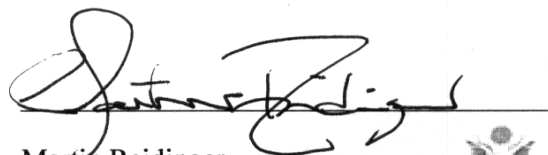
The ruling with regard to the Plaintiff's Motion [Doc. 13] renders moot all the other motions that are before the Court in this matter.

**IT IS THEREFORE ORDERED**, that the Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 13] is **GRANTED**, and this matter is hereby **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that the Defendant's Request for Permission to File Statement of Non-Opposition to Plaintiff's Motion to Voluntarily Dismiss Case [Doc. 14]; the Plaintiff's Request for Permission to File a Motion to Transfer this Case [Doc. 12]; the Defendant's Request for Permission to File Amended Certificate of Service [Doc. 16], and the Defendant's Request for Permission to File Motion for Relief from Pretrial Order and Case Management Plan [Doc. 17] are all **DENIED as moot**.

**IT IS SO ORDERED.**

Signed: April 23, 2008

  
Martin Reidinger  
United States District Judge

